IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

MONDAY, THE 8TH JANUARY 2007 / 18TH PAUSHA 1928

WP(C).No. 33597 of 2006(Y)

PETITIONER:

N.RAJAN, S/O.NANJAN,
PARAVAZHI HOUSE, ERATTUKULAM P.O.,
PALAKKAD DISTRICT.

BY ADV. SRI.K.K.BABU

RESPONDENTS:

THE WELFARE FUND INSPECTOR,
KERALA TODDY WORKERS WELFARE FUND BOARD,
PALAKKAD.

BY SC SRI. A.K. JOHN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 08/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

C.N.RAMACHANDRAN NAIR,J.

W.P.C.NO. 33597 OF 2006

Dated this the 8th day of January, 2007

JUDGMENT

The prayer in the Writ Petition is for direction to the Welfare Fund Inspector to collect and credit welfare fund contribution from licensees from 1993-94 onwards till date as petitioner was an employee in the toddy shop based on registration granted with retrospective effect. Petitioner has also filed Ext.P3 representation. Standing counsel appearing for the respondent submitted that as per records, contribution was being remitted in petitioner's name from 1993 to 1998. However, according to him, during 1998-2002 no contribution is remitted in petitioner's name. If the petitioner has continued as toddy worker then this omission should not have happened. It is not known whether the licensee has refused to remit the contribution from 1998 onwards. Probably petitioner may not have been aware of this omission on the part of the licensee. Obviously there is lapse on the part of the respondent because while determining contribution, the respondent should have ensured that contribution is collected for all the

employees. Since it is a continuing liability in respect of a toddy shop, the omission of petitioner's name from 1998 should have come to the notice of the respondent. In any case, even at this late stage, if any omission has happened, the respondent is bound to make up the same by issuing notice to the licensees recover the amount and credit it in the petitioner's account. W.P. is accordingly disposed of directing the respondent to consider the same based on Ext.P3 and based on observations above made. However, no demand should be raised against any licensee without issuing notice and without hearing him and without issuing proper adjudication order determining liability. If no recovery is made from the wages paid to the petitioner, then such amount which should have been recovered will be collected from the petitioner and remitted in his welfare fund account. A decision will be taken by the respondent within three months from the date of production of a copy of this judgment by the petitioner.

(C.N.RAMACHANDRAN NAIR)
Judge